

UNITED STATES DISTRICT COURT

FILED
CHARLOTTE, NC

JAN - 3 2022

for the
Western District of North Carolina
Charlotte Division

US DISTRICT COURT
WESTERN DISTRICT OF NC

Case No.

3:22-cv-5-MR
(to be filled in by the Clerk's Office)

Daniel Boyd McCracken #12993-023

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint.
If the names of all the plaintiffs cannot fit in the space above,
please write "see attached" in the space and attach an additional
page with the full list of names.)

-v-
Mecklenburg County Jail
Mecklenburg County Sheriff's Office, officially
Sheriff McFadden; Personally
Mecklenburg County Jail Chaplain, John Doe, &
Chaplain's Office Defendant(s)

(Write the full name of each defendant who is being sued. If the
names of all the defendants cannot fit in the space above, please
write "see attached" in the space and attach an additional page
with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Daniel McCracken

All other names by which
you have been known:

ID Number

Federal # 12993-023 / County # 293176

Current Institution

Federal Correctional Inst. Bennettsville

Address

P.O. Box 52020Bennettsville

City

S.C.

State

29512

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Mecklenburg County JailJob or Title (*if known*)County Detention Center

Shield Number

Employer

Mecklenburg County

Address

801 East 4th StreetCharlotte

City

N.C.

State

28202

Zip Code

☐

Individual capacity

☒

Official capacity

Defendant No. 2

Name

Mecklenburg County Sheriff's OfficeJob or Title (*if known*)

Shield Number

Employer

Mecklenburg County

Address

801 East 4th StreetCharlotte

City

N.C.

State

28202

Zip Code

☐

Individual capacity

☒

Official capacity

Defendant No. 3

Name

Sheriff McFadden / Sheriff's Office

Job or Title (if known)

Sheriff of Mecklenburg County

Shield Number

Employer

Mecklenburg County

Address

801 East 4th Street

Charlotte

N.C.

28202

City

State

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

Mecklenburg County Jail Chaplain, John Doe.

Job or Title (if known)

Mecklenburg County Chaplain's Office.

Shield Number

Employer

Mecklenburg County

Address

801 East 4th Street

Charlotte

N.C.

28202

City

State

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐

Federal officials (a *Bivens* claim)

☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Freedom of Religion / Cruel and Unusual Punishment Inflicted

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed. All parties violated my individual rights to Freedom of Religion; and acted cruel and unusual for the length of my stay, under federal indictment, at Mecklenburg County Jail, even after I brought the issue to their attention. Each Defendant deprived me of my right to practise my religion. One Occassion Chaplain John Doe called me a "kike", then refused to shake my hand while passing
- III. Prisoner Status out Christmas bags. (SEE CAMERA)

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.
- Between Feb 2018 - March 2020 All parties denied Plaintiff Kasher Diet. For two year's Defendants claimed Plaintiff was being secular, diminishing the right to his belief, his religion, where defendant only offered (ie Religious Diets) Consisting of Beans and Peanutbutter as a source of Protein. Furthermore cross contaminating Plaintiff's tray with "Special Tray Diets" with unclear meats and food, not Kasher. Plaintiff was called a "kike" by Chaplain, John Doe.

C. What date and approximate time did the events giving rise to your claim(s) occur?

From as early as Feb 2018
Until March 2020.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

The Chaplain at the Mecklenburg County Jail denied Plaintiff's request for Kosher Diet. During intake, the nurse said I must email chaplain's office to request Kosher Diet. Once I did, I was denied. I even asked them to call the last Institution I was at to confirm I was not being "Secular" (As he put it) being Worldly ie Tray Shopping. I emailed on the kiosk on many occasions, All parties from Sgt to Floor Supervisors, Kitchen and Chaplain's Office denied such Diet.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. I suffered deeply, emotionally where I ^{was} ~~am~~ currently medicated for depression. I was called names by staff in regards to this. I don't feel like I was able to connect Spiritually having to contaminate my body with unclean foods

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Money Damages : \$250,000 (Actual)

Punitive Damages: \$1.3 Million.

Money damages cover a daily suffering inflicted

Punitive damages cover intended punishment inflicted.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Charlotte, Mecklenburg County Jail

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☐ No

☒ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☒ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint? I made my grievance through emails on the county jail's kiosk system. I emailed everyone I was referred to talk to on this matter, until it was obvious no one cared what was happening to me.
- ☒ Yes
- ☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility? I made many complaints. To the point I was threatened, indirectly shaken-down, officer's have taken my canteen, stating it wasn't in the wrapper it was bought in. Once they took \$27 in cookies

☒ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance?

Using Mecklenburg County Jail Kiosk. (Should be extensive record)

2. What did you claim in your grievance?
- Continue to request Kosher Diet, explaining what was going on, that I was not being "Secular", Asking if I'd been on the Jail's Religious Diet long enough to earn my right to Kosher diet. I even expressed that I'd been on Kosher Diet at my last Institution, and the denied to even check the validity of my grievance.

3. What was the result, if any?

The result was being denied. Stating I was being Secular; worldly, and Tray Shopping.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

None were appealed after indirect Shake down's, harassment took place. Knowing it would only result in further punishment.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

I emailed on the jail's "kiosk" to chain of command, unsure if there was a grievance process. I went to as many people as I could, I was sent back to the Chaplain's office, every time. By this time, they're mad at me and simply refused to honor the fact that I was telling the truth.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I would like to reflect to "kiosk" records at the jail from me to staff concerning this matter. I sent at least 8 email's just on this issue.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

See kiosk records as they will reflect truth on this matter.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.) I would like to request copies of my kiosk record from Feb 2018 - March 2020 from the County Jail. I have been trying to obtain these records since July 2020, by letter. No Answer.

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____

Signature of Plaintiff



Printed Name of Plaintiff

Daniel B. McCracken

Prison Identification #

12993-023 FCI Bennettsville

Prison Address

P.O. Box 52020

Bennettsville
City

S.C.
State

29512
Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address